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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/057,313	04/08/1998	JOHN D. MCCOWN	033449-002	6282

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MCALLISTER, STEVEN B

ART UNIT	PAPER NUMBER
2167	

DATE MAILED: 02/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. <b>09/057,313</b>	Applicant(s) <b>McCown et al</b>
	Examiner <b>Steven McAllister</b>	Art Unit <b>2167</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on Jan 15, 2002.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 15-19, 21-28, and 32-40 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 15-19, 21-28, and 32-40 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      20)  Other: \_\_\_\_\_

Art Unit: 2167

## **DETAILED ACTION**

Pursuant to the interview with the applicant of 11/16/2001, the finality of the Office Action of 9/28/01 is withdrawn.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 36 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 36 recites raising, lowering, rotating and inclining the gripping portion of the loading vehicle for each container loaded. However, going through these motions for each container is not disclosed in the original specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 40 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2167

Claim 40 recites a rail with a downwardly depending lip. However, none is disclosed. In examining the claim, it was assumed to read a “ramp with a downwardly depending lip”.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16-19, 21, 22 -40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Backteman et al and Charles.

Freeman discloses individually lifting of those containers comprising strapped pallets (col. 1, lines 28-30), transporting them with the forklift onto a ship, and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). Freeman does not show using a container having a set of outer walls defining an inner volume and loading freight into that inner volume or a vehicle with a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body.

Backteman et al show securing freight containers C with outer walls defining an inner volume (see Fig. 1). Backteman et al inherently show loading freight into the inner volume since said containers function by holding freight inside their volume. It would have been obvious to one of

Art Unit: 2167

ordinary skill in the art to modify the apparatus of Freeman by using the containers of Backteman et al to provide for more secure stacking. Charles shows a vehicle with a gripper including a spreader, the gripper capable of being raised and lowered, rotated and inclined relative to the body. It would have been obvious to one of ordinary skill in the art to modify the method of Freeman by using the vehicle of Charles in order to allow horizontal movement of the container without moving the body of the vehicle.

As to claim 17, it is noted that Backetman et al show securing the containers to the deck by semiautomatic twistlocks.

As to claims 18 and 19, it is noted that Backetman et al discloses containers C capable of allowing interconnection of containers by semi-automatic (Fig. 2) twistlocks in a stacked environment. Both Backetman et al (Fig. 1) and Freeman (pg. 1, col. 1, line 29) disclose stacking containers.

As to claim 22, it is noted that Freeman discloses individually lifting of the containers (col. 1, lines 31-32) and he discloses transporting them with the forklift from the ship and stacking them the dock in a warehouse (col. 1, lines 31-32). Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3).

As to claim 23, Freeman in view of Backetman et al and Charles show all elements of the claim except securing the ramp to a longitudinal rail. However, it is old and well known in the art to secure a ramp to a longitudinal rail (such as hooking the lip of a ramp over a longitudinal

Art Unit: 2167

rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

As to claim 24, it is noted that Bucketman et al discloses containers C capable of allowing interconnection of containers by semi-automatic (Fig. 2) twistlocks in a stacked environment. Both Bucketman et al (Fig. 1) and Freeman (pg. 1, col. 1, line 29) disclose stacking containers. Freeman additionally discloses offloading the ship with a reach stacker comprising a forklift (pg. 1, col. 1, lines 31-32) and towing to a destination site (p. 1, col. 2, line 24).

As to claim 25, Freeman also inherently discloses repeating the lifting step since multiple forklift trips are necessary to load a large number of loads on a ship.

As to claim 21, Freeman also shows unloading the containers at a destination (col. 1, lines 31-33).

As to claim 26, it is noted that in loading a ship it is inherent that the forklift release the container or one forklift would be required for each container.

As to claim 33, it is inherent that the container is at least partially entered by a workman or vehicle in order to load since the workman or vehicle must handle the load.

As to claim 34, it is noted that as broadly claimed a forklift is a lift stacker since it performs all functions associated with the term.

As to claim 35, it is noted that Freeman discloses towing the marine vessel with the containers on the deck and that Bucketman et al show securing the containers to the deck.

Art Unit: 2167

As to claims 36 and 37, (assuming that the claim is enabled) raising, lowering, rotating and inclining the gripping portion for each container is inherent in the reach stacker of Charles.

As to claims 38 and 39, each container has a pair of receptacles for spreader attachment adjacent the top edge of the container (Fig.1).

As to claim 40, Freeman in view of Backteman et al and Charles show all elements of the claim except securing the ramp with a longitudinal rail using a downwardly depending lip. However, it is old and well known in the art to secure a ramp to a longitudinal rail using a downwardly depending lip (such as hooking the lip of a ramp over a longitudinal rail on the back of a moving truck). It would have been obvious to one of ordinary skill in the art to further modify the method of Freeman by securing the depending lip of the ramp with a longitudinal rail in order to keep the ramp from slipping and increase safety.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Backteman et al and Charles as applied to claim 22 above, and further in view of Teubert.

Freeman in view of Backteman discloses all elements of the claim except securing the ramp to a longitudinal rail on the ship. Teubert discloses securing ramp J to the longitudinal rail seen in Figs. 1 and 2. It would have been obvious to one of ordinary skill in the art to modify Freeman by securing the ramp to a longitudinal rail in order to make the ramp's connection more stable and avoid accidents with the forklifts.

Art Unit: 2167

***Response to Arguments***

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2167

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.



Steven B. McAllister

February 21, 2002



2/22/02

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